



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 2145

DATE SCANNED 9-13-10

SCANNER NO. 7

SCAN OPERATOR Jamie

10092651360



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2010 JUN 17 A 9:55

June 16, 2010

MEMORANDUM

**SENSITIVE**

TO: THE COMMISSION

THROUGH: ALEC PALMER  
ACTING STAFF DIRECTOR *AP*

FROM: PATRICIA CARMONA *PC*  
CHIEF COMPLIANCE OFFICER

DEBBIE CHACONA *DC*  
ACTING ASSISTANT STAFF DIRECTOR  
REPORTS ANALYSIS DIVISION

BY: *rus* NATALIYA IOFFE/RHIANNON MAGRUDER *RM*  
COMPLIANCE BRANCH

SUBJECT: REASON TO BELIEVE RECOMMENDATION – 2010 12 DAY  
PRE-PRIMARY REPORT (NORTH CAROLINA AND OHIO) FOR  
THE ADMINISTRATIVE FINE PROGRAM

Attached is a list of political committees and their treasurers who failed to timely file the 2010 12 Day Pre-Primary Report for the North Carolina and Ohio Primary Elections in accordance with 2 U.S.C. § 434(a). The 12 Day Pre-Primary Report was due on April 22, 2010, and the Primary Elections were held on May 4, 2010.

The committees listed on the attached RTB Circulation Report failed to file the election sensitive report by the required due date. Election sensitive reports filed more than four days prior to the election are considered late, and reports not filed more than four days prior to the election are considered not filed. In accordance with the schedule of civil money penalties for reports at 11 CFR § 111.43, these committees should be assessed the civil money penalties highlighted on the attached circulation report.

**Recommendation**

1. Find reason to believe that the political committees and their treasurers listed on the RTB Circulation Report violated 2 U.S.C. § 434(a) and make a preliminary determination that the civil money penalties would be the amounts indicated on the RTB Circulation Report.
2. Send the appropriate letters.

Federal Election Commission  
Reason to Believe Circulation Report  
2010 PRE-PRIMARY Election Sensitive 04/22/2010 AUTH ( NC, OH, IN)

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
2145	C00470179	DR DAN 4 CONGRESS	EICHENBAUM, DAN	BRIAN UMBARGER	\$233,049	0	4/30/2010	Not Filed	\$66,208	\$3,300
2146	C00473835	IOTT FOR CONGRESS 2010	IOTT, RICHARD BRADLEY	LARRY A. DAVENPORT	\$696,548	0	4/28/2010	6	\$77,475	\$1,320

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
)  
Reason To Believe Recommendation - 2010 )  
12 Day Pre-Primary Report (North Carolina )  
and Ohio) for the AF Program: )  
IOTT FOR CONGRESS 2010, and LARRY ) AF# 2146  
A DAVENPORT as treasurer; )  
DR DAN 4 CONGRESS, and BRIAN ) AF# 2145  
UMBARGER as treasurer; )

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on June 18, 2010 the Commission took the following actions on the Reason To Believe Recommendation - 2010 12 Day Pre-Primary Report (North Carolina and Ohio) for the AF Program as recommended in the Reports Analysis Division's Memorandum dated June 17, 2010, on the following committees:

AF#2146 Decided by a vote of 6-0 to: (1) find reason to believe that IOTT FOR CONGRESS 2010, and LARRY A DAVENPORT as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2145 Decided by a vote of 6-0 to: (1) find reason to believe that DR DAN 4 CONGRESS, and BRIAN UMBARGER as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated

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Federal Election Commission  
Certification for Administrative Fines  
June 18, 2010

Page 2

on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

June 18, 2010

Date

Shawn Woodhead Werth

Shawn Woodhead Werth

Secretary and Clerk of the Commission

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 21, 2010

Brian Umbarger, in official capacity as Treasurer  
Dr. Dan 4 Congress  
P.O. Box 18223  
Asheville, NC 28814

C00470179  
AF#: 2145

Dear Mr. Umbarger:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file a 12 Day Pre-Primary Report of Receipts and Disbursements in any calendar year during which there is a regularly scheduled election for which the candidate is seeking election, or nomination for election. This report, covering the period through April 14, 2010, shall be filed no later than April 22, 2010. 2 U.S.C. § 434(a). Because records at the Federal Election Commission ("FEC") indicate that this report was not filed prior to four (4) days before the election, it is considered not filed for the purpose of calculating the civil money penalty.

The Act permits the FEC to impose civil money penalties for violations of the reporting requirements of 2 U.S.C. § 434(a). 2 U.S.C. § 437g(a)(4). On June 18, 2010, the FEC found that there is reason to believe ("RTB") that Dr. Dan 4 Congress and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a) by failing to file timely this report on or before April 22, 2010. Based on the FEC's schedules of civil money penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$3,300. Please see the attached copy of the Commission's administrative fine regulations at 11 C.F.R. §§ 111.30-111.46. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 C.F.R. § 111.34. Your payment of \$3,300 is due within forty (40) days of the finding, or by July 28, 2010, and is based on these factors:

Election Sensitivity of Report: Election Sensitive  
Level of Activity: \$66,208  
Number of Days Late: Not Filed (for the purpose of calculating the penalty only)  
Number of Previous Civil Money Penalties Assessed: 0

At this juncture, the following courses of action are available to you:

**1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty**

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found at the top of page 1 under your

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committee's identification number, to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must be received within forty (40) days of the Commission's RTB finding, or July 28, 2010. 11 C.F.R. § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 C.F.R. § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 C.F.R. § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 C.F.R. § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 C.F.R. § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. district court under 2 U.S.C. § 437g. 11 C.F.R. § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

## **2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge**

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Dr. Dan Claitor and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 C.F.R. § 111.51(a)(2).

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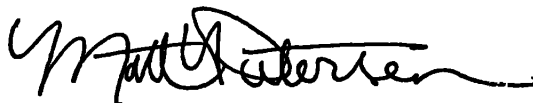
**3. If You Choose to Pay the Civil Money Penalty**

If you should decide to pay the calculated civil money penalty, send the enclosed remittance form, along with your payment, to the FEC at the address on page 4. Upon receipt of your payment, the FEC will send you a final determination letter.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. § 437g(a)(2). It will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and 437g(a)(12)(A) until it is placed on the public record in accordance with 11 C.F.R. § 111.42, unless you notify the FEC in writing that you wish the matter to be made public.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Rhannon Magruder in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Matthew S. Petersen  
Chairman

180092651367



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**ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at RTB is \$3,300 for the 2010 Pre-Primary Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission  
P.O. Box 979058  
St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox  
FEC #979058  
1005 Convention Plaza  
Attn: Government Lockbox, SL-MO-C2GL  
St. Louis, MO 63101

The remittance and your payment are due by July 28, 2010. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

**PAYMENTS BY PERSONAL CHECK**

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**  
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FOR: Dr. Dan 4 Congress

FEC ID#: C00470179

AF#: 2145

PAYMENT DUE DATE: July 28, 2010

PAYMENT AMOUNT DUE: \$3,300

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

2010 AUG -2 P 3:25

August 2, 2010

**SENSITIVE**

**MEMORANDUM**

TO: THE COMMISSION

THROUGH: ALEC PALMER *AP*  
ACTING STAFF DIRECTOR

FROM: PATRICIA CARMONA *PC*  
CHIEF COMPLIANCE OFFICER

DEBBIE CHACONA *DC*  
ASISTANT STAFF DIRECTOR  
REPORTS ANALYSIS DIVISION

BY: *NUS* NATALIYA IOFFE/RHIANNON MAGRUDER *RM*  
REPORTS ANALYSIS DIVISION  
COMPLIANCE BRANCH

SUBJECT: ADMINISTRATIVE FINE PROGRAM – FINAL DETERMINATION  
RECOMMENDATION FOR THE 2010 12 DAY PRE- PRIMARY REPORT  
(NORTH CAROLINA AND OHIO)

Attached is a list of political committees and their treasurers against which the Commission has found reason to believe (RTB) and assessed proposed civil money penalties calculated at RTB for failure to file or failure to timely file the 2010 12 Day Pre-Primary Report (North Carolina and Ohio). The committees have paid the civil money penalties requested at RTB.

In accordance with 11 CFR § 111.34, the Commission shall send a final determination notice to the respondents that have paid the civil money penalties.

**RAD Recommendation**

- (1) Make final determination that the political committees and their treasurers on the attached report violated 2 U.S.C. § 434(a) and assess the final civil money penalties so indicated.
- (2) Send the appropriate letters.

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9/2/2010 11:33 AM

Federal Election Commission  
FD Circulation Report Fine Paid  
2010 PRE-PRIMARY Election Sensitive 04/22/2010 AUTH ( NC, OH, IN)

AF#	Committee Name	Candidate Name	Committee ID	Treasurer	Receipt Date	Days Late	LOA	PV	RTB Date	RTB Penalty	Final Money Penalty	Date Paid	Amount Paid
2145	DR DAN 4 CONGRESS	EICHENBAUM, DAN	C00470179	BRIAN UMBARGER	04/30/2010	Not Filed	\$66,208	0	06/16/2010	\$3,300	\$3,300	07/29/2010	\$3,300
2146	IOTT FOR CONGRESS 2010	IOTT, RICHARD BRADLEY	C00473535	LARRY A. DAVENPORT	04/28/2010	6	\$77,475	0	06/16/2010	\$1,320	\$1,320	08/29/2010	\$1,320

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
)  
Administrative Fines Program -Final )  
Determination Recommendation for the )  
2010 12 Day Pre-Primary Report (North )  
Carolina and Ohio): )  
IOTT FOR CONGRESS 2010, and LARRY ) AF# 2146  
A DAVENPORT as treasurer; )  
DR DAN 4 CONGRESS, and BRIAN ) AF# 2145  
UMBARGER as treasurer; )

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on August 03, 2010 the Commission took the following actions on the Administrative Fines Program -Final Determination Recommendation for the 2010 12 Day Pre-Primary Report (North Carolina and Ohio) as recommended in the Reports Analysis Division's Memorandum dated August 02, 2010, on the following committees:

AF#2146 Decided by a vote of 6-0 to: (1) make a final determination that IOTT FOR CONGRESS 2010, and LARRY A DAVENPORT as treasurer , violated 2 U.S.C. 434(a) and assess the final civil money penalty so indicated; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2145 Decided by a vote of 6-0 to: (1) make a final determination that DR DAN 4 CONGRESS, and BRIAN UMBARGER as treasurer , violated 2 U.S.C. 434(a) and assess the final civil money penalty so indicated; (2) send the appropriate letter.

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Federal Election Commission  
Certification for Administrative Fines  
August 03, 2010

Page 2

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

August 3, 2010  
Date

Shawn Woodhead Werth  
Shawn Woodhead Werth  
Secretary and Clerk of the Commission

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 17, 2010

Brian Umbarger, in official capacity as Treasurer  
Dr. Dan 4 Congress  
P.O. Box 18223  
Asheville, NC 28814

C00470179  
AF#: 2145

Dear Mr. Umbarger:

On June 18, 2010, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Dr. Dan 4 Congress and its treasurer violated 2 U.S.C. § 434(a) for filing late or failing to file the 2010 Pre-Primary Report. By letter dated June 21, 2010, the Commission sent notification of the RTB finding that included a civil money penalty calculated at the RTB stage of \$3,300 in accordance with the schedule of penalties at 11 C.F.R. § 111.43.

On July 29, 2010, the FEC received payment of the civil money penalty calculated at the RTB stage. The FEC made a final determination on August 3, 2010 that you, in your official capacity as treasurer, and Dr. Dan 4 Congress violated 2 U.S.C. § 434(a), assessed a civil money penalty in the amount of \$3,300 in accordance with 11 C.F.R. § 111.43, and voted to close the file.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. The file will be made a part of the public record pursuant to 11 C.F.R. § 111.42(b). Although the file must be placed on the public record within thirty (30) days from the date of the Commission's notification, this could occur at anytime following certification of the Commission's vote.

If you have any questions regarding this matter, please contact Ian Wandner on our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130.

On behalf of the Commission,

A handwritten signature in black ink, appearing to read "Matt Petersen", written over a horizontal line.

Matthew S. Petersen  
Chairman

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QUALITY IS OUR PRIORITY FOR LOCKBOX 9058  
SEQ# 001 \$ 0000330000 BA# 1 07-28-10 20 9



10092651374  
usbankcorp.  
The Small Business Connection

DANIEL M. EICHENBAUM, M.D., P.A. DISEASES AND SURGERY OF THE EYE [REDACTED]		UNITED COMMUNITY BANK MURPHY, NORTH CAROLINA 06-1107581 BRANCH 104	7648 7/26/2010
PAY TO THE ORDER OF	Federal Election Commission	\$ **3,300.00	
Three Thousand Three Hundred and 00/100*****		DOLLARS	
Federal Election Commission			
MEMO	For: Dr. Dan 4 Congress FED ID#C00470179		
AF#2145	[REDACTED]		

SECURITY FEATURES INCLUDED: DETACHABLE BACK - 10



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 2145

DATE SCANNED 9-13-10

SCANNER NO. 1

SCAN OPERATOR AMP

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